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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/650,709	05/20/96	ALBIN	D 7693-002-0

Q21/0623
OBLON SPIVAK MCCLELLAND
MAIER AND NEUSTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

EXAMINER

DEXTER, C

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 06/23/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/650,709

Applicant(s)
Albin et al.

Examiner
Clark F. Dexter

Group Art Unit
3724



☒ Responsive to communication(s) filed on Mar 20, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 2 and 12-23 is/are pending in the application.

Of the above, claim(s) 2, 12, and 13 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 14-23 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. The amendment filed March 20, 1998 has been entered.

Drawings

2. The drawings stand objected to because in Figures 1-3, alternate embodiments of the cutting roll are shown which is not reflected by the drawings, and numeral 11 is used to represent the different embodiments which is improper, and it is suggested to change "11" in Figure 2 to --11'--[✓], and to change "11" in Figure 3 to --11"--[✓]. Correction is required.

3. The drawings stand objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "depressions" as set forth in claim 11 must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

4. Claims 14-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with vague and indefinite language and should be carefully reviewed. The following are examples of many of the occurrences of such language.

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In claim 14, line 2, the phrase “and rotating in opposite direction” renders the claim vague and indefinite since no structure has been set forth to perform the recited function of “rotating”; in line 7, “the width” lacks positive antecedent basis, and the phrase “the width of the nip is variable” is vague and indefinite since no structure has been set forth to perform this function - i.e., the function of varying the width of the nip.

In claim 15, line 1, “a width” is vague and indefinite, particularly as to whether it refers to “the width” set forth in claim 14 or to another such width; in lines 2-3, “the height” lacks positive antecedent basis; in lines 2-3, the phrase includes the use of “or” and “or both” which makes it an alternative phrase that renders it vague and indefinite, particularly as to what the width of the nip approximates (it is noted that no relationship has been established between the heights of the cutting elements).

In claim 16, lines 1-2, the phrase “has a circumferential rate” is vague and indefinite since no structure has been set forth to rotate either of the rollers, and thus the longitudinal cutting element; also in lines 1-2, the phrase “has a circumferential rate which is higher than the conveying rate of the polymer gel” is vague and indefinite since the invention is being defined in terms of a conveying structure or in terms of the workpiece, neither of which is part of the claimed invention.

In claim 18, line 2, the phrase “is planed or has the form of a sickle” is vague and indefinite since it is recited in the alternative and the alternative forms are not equivalents; further “is planed” is vague as to what structure is being set forth (is it intended to mean planar?).

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In claim 19, line 2, the phrase “is arranged in parallel or spindle-shaped” is vague and indefinite since it is recited in the alternative and the alternative forms are not equivalents; further, “spindle-shaped” is vague and indefinite as to what structure is being set forth; in lines 2-3, the phrase “the cutting roll or the cross-cutting roll” is vague and indefinite as to what is being set forth since “the longitudinal axis of the cross-cutting roll” lacks antecedent basis, and since there are only two rolls being claimed - a cutting roll (with a cross-cutting element) and a backup roll - and the claimed relationship is not clear.

In claim 20, line 1, “conveys” renders the limitation vague and indefinite since no structure has been set forth to rotate the back-up roll and thus to convey the gel; in lines 2-3, the phrase includes the use of “or” and “or both” which makes it an alternative phrase that renders it vague and indefinite, particularly as to which cutting elements are involved.

In claim 23, lines 2-3, the phrase includes the use of “or” and “or both” which makes it an alternative phrase that renders it vague and indefinite, particularly as to which blade or blades are received by the depressions.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 14-16 and 18-20, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Heywood.

Heywood discloses a device, particularly in Figures 1-4, with every structural limitation of the claimed invention as best understood from the claims including a cutting roll (F or G-G') with axially extending cross-cutting elements (e.g., "e") and radially extending longitudinal cutting elements (e.g., "c" or "d" or "I"), and a back-up roll (C) which is approximately parallel to the cutting roll; wherein the nip approximates the height of the cross-cutting element, and wherein the cross section of the axially extending cross-cutting element is planed (as best understood) and is parallel to the longitudinal axis of the cutting roll. It is noted that the limitation directed to the width of the nip being variable has been given little patentable weight since no structure has been set forth for this function, and Heywood discloses all of the claimed structure. It is further noted that the slots (a) of Heywood provide this function.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claim 17, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Heywood.

Heywood discloses flat cross cutters but lacks a disclosure that the cross cutters are formed of flat steel polished on one side. However, the Examiner takes Official notice that it is old and well known in the art to provide cutting blades made of polished steel to keep the blades free of contaminants and to provide a blade having a cleaner appearance. Therefore, it would have been obvious to one having ordinary skill in the art to make the blades, including the cross cutters, of Heywood of polished steel for the well known reasons including those described above.

9. Claims 21-23, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Heywood in view of Stream.

Heywood lacks the back-up roll being coated with plastic and further lacks depressions in the surface of the back-up roll. However, Heywood discloses that the back-up roll is covered with a soft material, specifically "rawhide or any other suitable material". Further, it is old and well known in the art to provide plastic on an anvil or back-up roll as evidenced by Stream to enable the blade to press through the workpiece with sufficient pressure to cut the workpiece while not dulling the cutting edge of the blade. Plastic coating is clearly a modern alternative to a rawhide coating, and the specific types of plastic set forth are common forms of plastic. Further, the plastic coating of Stream forms depressions to receive the cutting edges of the blades of the cutter roller and Stream teaches that this establishes a strong traction between the cutter roll and

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the back-up roll and further prevents wear of the backup roll. Therefore, it would have been obvious to one having ordinary skill in the art to replace the rawhide coating with plastic, particularly the notched coating of Stream, to gain the well known advantages of plastic including increased durability and reduced manufacturing costs as well as the advantages taught by Stream. Further, one having ordinary skill in the art would clearly select a common form of plastic for the well known benefits including availability.

Response to Arguments

10. Applicant's arguments filed March 20, 1998 have been fully considered but they are not persuasive.

In the fifth paragraph on page 4 of the amendment, applicant states that one important difference between Heywood and the present invention is that the width of the roll gap approximates the height of the at least one axially extending cross-cutting element or radially extending cutting element or both. Heywood clearly discloses this relationship. As shown in Figure 2, for example, the radially extending blade contacts the back-up roller and thus the nip between the rollers is clearly approximately equal to the height of at least the radially extending blade.

In the paragraph bridging pages 4 and 5 of the amendment, applicant states that the roll gap of the present invention is adjustable. However, there is no structure positively set forth in

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the claims for adjusting the roll gap. Further, Heywood's device includes slot (a) which allows the spacing between the rolls, and thus the roll gap width, to be adjustable.

In the second paragraph on page 5 of the amendment, applicant states that another important feature of the present invention is that the longitudinal cutter is formed such that its circumferential rate is higher than the conveying rate of the gel. However, none of the claims includes structure to rotate the longitudinal cutter. Further, none of the claims includes structure to convey the gel. Therefore, there is no structure set forth in the claims to perform the recited function. Thus, Heywood anticipates the claimed invention because it discloses all of the claimed structure of the present invention.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax number for this group is (703)305-3579.

Communications via Internet e-mail regarding this application, other than those under 35 USC 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rinaldi.rada@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 USC 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark Office on February 25, 1997 at 1195 OG 89.


Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
June 22, 1998